



City of NORFOLK

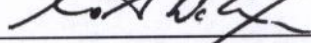
C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

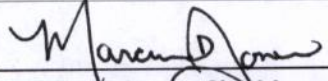
June 9, 2015

From: George M. Homewood, AICP, CFM, Planning Director

Subject: To amend a previously granted special exception to operate an eating and drinking establishment at 905 E. Ocean View Avenue – 905 Café and Grill

Reviewed: 
Ronald H. Williams, Jr., Deputy City Manager

Ward/Superward: 5/6

Approved: 
Marcus D. Jones, City Manager

Item Number: **R-2**

- I. **Staff Recommendation:** Approval.
- II. **Commission Action:** By a vote of **7 to 0**, the Planning Commission recommends **Approval**.
- III. **Request:** Special exception – eating and drinking establishment.
- IV. **Applicant:** Keith Wygant
- V. **Description:**
 - This request is to amend the hours of operation for 905 Café and Grill, an existing restaurant.
 - The applicant proposes to remain open one hour later than is currently permitted and expand the hours for alcoholic beverage sales.
 - The site is located at the corner of East Ocean View Avenue and Elnora Street within the Cottage Line and Bayview neighborhoods.

	Prior	Proposed
Hours of Operation	6:00 a.m. until 11:00 p.m., Seven days a week	6:00 a.m. until 12:00 midnight, Seven days a week
Hours for the Sale of Alcoholic Beverages	11:00 a.m. until 11:00 p.m., Seven days a week	9:00 a.m. until 12:00 midnight, Seven days a week
Capacity	46 seats indoors 30 seats outdoors 79 total capacity	Same

Staff point of contact: Chris Whitney at 823-1253, chris.whitney@norfolk.gov

Attachments:

- Staff Report to CPC dated May 28, 2015 with attachments
- Proponents and Opponents
- Ordinances



City of NORFOLK

Planning Commission Public Hearing: May 28, 2015

60 Executive Secretary: George M. Homewood, AICP, CFM *2MW 44*

Staff: Chris Whitney, CFM *CW*

Staff Report	Item No. 7	
Address	905 East Ocean View Avenue	
Applicant	905 Café and Grill	
Request	Amend Special Exception	Eating and Drinking Establishment
Property Owner	George Kotarides	
Site Characteristics	Site Area	15,096 sq. ft.
	Zoning	C-2 (Corridor Commercial)
	Neighborhoods	Cottage Line; Bayview
	Character District	Suburban
Surrounding Area	North	R-12 (Multi-Family): apartments
	East	C-2: 7-Eleven
	South	R-12: fourplex
	West	R-12: apartments



A. Summary of Request

- This request is to amend the hours of operation for 905 Café and Grill, an existing restaurant.
 - The applicant proposes to remain open one hour later than is currently permitted and expand the hours for alcoholic beverage sales.
- The site is located at the corner of East Ocean View Avenue and Elnora Street within the Cottage Line and Bayview neighborhoods.

B. Plan Consistency

The proposed special exception is consistent with *plaNorfolk2030*, which designates this site as commercial.

C. Zoning Analysis

i. General

- The use is permitted in the C-2 district by special exception.

	Prior	Proposed
Hours of Operation	6:00 a.m. until 11:00 p.m., Seven days a week	6:00 a.m. until 12:00 midnight, Seven days a week
Hours for the Sale of Alcoholic Beverages	11:00 a.m. until 11:00 p.m., Seven days a week	9:00 a.m. until 12:00 midnight, Seven days a week
Capacity	46 seats indoors 30 seats outdoors 79 total capacity	Same

- Special exception history:

City Council Approval	Applicant	Changes
May 2012	Keith Wygant	Original Application (Eating and Drinking Establishment)
Pending	905 Café and Grill	Modify Hours of Operation and for ABC sales

ii. Parking

There is sufficient on-site parking to accommodate this establishment.

iii. Flood Zone

The property is located in the X Flood Zone, which is a low risk flood zone.

D. Transportation Impacts

- Institute of Transportation Engineers figures calculate forecast travel for restaurants based upon the total seating of an establishment.
- Since no increase in seating is being proposed for the site, no additional trips are projected.

E. Impact on the Environment

Site improvements shall include perimeter landscaping along East Ocean View Avenue and Elnora Street.

F. Impact on Surrounding Area/Site

By requiring this use to conform to the conditions listed below, the proposed eating and drinking establishment should not have a negative effect on the surrounding neighborhood.

G. Payment of Taxes

The owner of the property is current on all real estate taxes.

H. Civic League

- The application was sent to the Cottage Line and Bayview Civic Leagues on April 15.
- A letter of support from the Cottage Line Civic League was received on May 18.

I. Communication Outreach/Notification

- Legal notice was posted on the property on April 21.
- Letters were mailed to all property owners within 300 feet of the property on May 13.
- Legal notification was placed in *The Virginian-Pilot* on May 14 and May 21.

J. Recommendation

Staff recommends that the special exception request be **approved** subject to the conditions shown below:

- (a) The hours of operation for the establishment shall be from 6:00 a.m. until 12:00 a.m., seven days a week. No use of the establishment outside of the hours of operation listed herein shall be permitted.
- (b) The hours of operation for the sale of alcoholic beverages shall be from 9:00 a.m. until 12:00 a.m., seven days a week. No use of the establishment outside of the hours of operation listed herein shall be permitted.
- (c) The seating for the establishment shall not exceed 46 seats indoors, 30 seats outdoors, and the total occupant capacity, including employees, shall not exceed 79 people.

- (d) Landscaping shall be installed in a buffer along the portions of the lot fronting East Ocean View Avenue and Elnora Street in accordance with a plan prepared by the applicant and as approved by the Department of Planning and Department of Recreation, Parks, and Open Space, including any recommended modifications.
- (e) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.
- (f) The establishment shall maintain a current, active business license at all times while in operation.
- (g) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (h) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.
- (i) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so as to keep such areas free of litter, refuse, solid waste, and any bodily discharge.
- (j) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.
- (k) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (l) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including

a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.

- (m) There shall be no entertainment, no dancing, and no dance floor provided.
- (n) Neither the establishment nor any portion of it shall be leased, let, or used to stage any private party and no outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (o) A copy of this special exception ordinance and Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this special exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

Attachments:

Location Map
Zoning Map
1000' radii map of similar ABC establishments
Application
Notices to the Civic Leagues
Letter of Support from Cottage Line Civic League


Proponents and Opponents

Proponents

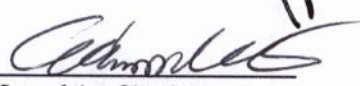
Keith Wygant - Applicant
905 E. Ocean View Avenue
Norfolk, VA 23503

Opponents

None

Form and Correctness Approved: 

Contents Approved: 

By 
Office of the City Attorney

By 
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION TO PERMIT THE OPERATION OF AN EATING AND DRINKING ESTABLISHMENT NAMED "905 CAFÉ AND GRILL" ON PROPERTY LOCATED AT 905 EAST OCEAN VIEW AVENUE.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted to Lemonade Stand, LLC authorizing the operation of an eating and drinking establishment named "905 Café and Grill" on property located at 905 East Ocean View Avenue. The property which is the subject of this Special Exception is more fully described as follows:

Property fronting 100 feet, more or less, along the southern line of East Ocean View Avenue and 150 feet, more or less, along the eastern line of Elnora Street; premises numbered 905 East Ocean View Avenue.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The hours of operation for the establishment shall be limited to 6:00 a.m. until 12:00 midnight, seven days per week. No use of the establishment outside of the hours of operation listed herein shall be permitted.
- (b) The hours for the sale of alcoholic beverages shall be limited to 9:00 a.m. until 12:00 midnight, seven days per week.
- (c) The seating for the establishment shall not exceed 46 seats indoors, 30 seats outdoors, and the total occupant capacity, including employees, shall not exceed 79 people.
- (d) Landscaping shall be installed in a buffer along

the portions of the lot fronting East Ocean View Avenue and fronting Elnora Street in accordance with a plan prepared by the applicant and as approved by the Department of Planning and Department of Recreation, Parks, and Open Space, including any recommended modifications.

- (e) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier..
- (f) The establishment shall maintain a current, active business license at all times while in operation.
- (g) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (h) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the Special Exception so as to keep such areas free of litter, refuse, solid waste, and any bodily discharge.
- (i) A menu shall be provided containing an assortment of foods which shall be made available at all times the restaurant is open. A food menu and full dining service shall be available at the bar.
- (j) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator, or manager desire to

operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

- (k) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (l) Neither the establishment nor any portion of it shall be leased, let, or used to stage any private party and no outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (m) A copy of this Adult Use Special Exception ordinance and Exhibits shall be available on site at all times for inspection, and a notice indicating that this Adult Use Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted General Plan of Norfolk and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;

- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- (d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;
- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;
- (j) The proposed use and development complies with all additional standards imposed on it by the

particular provisions of the ordinance authorizing such use; and

- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That the Special Exception granted hereby amends the previously granted special exception permitting operation of an eating and drinking establishment on this property, adopted on May 22, 2012, (Ordinance No. 44,672) and all provisions and conditions previously approved are entirely superseded by the terms of this Special Exception.

Section 5:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT:

Exhibit A (3 pages)



EXHIBIT "A"
Description of Operations
Eating and Drinking Establishment

Date 4-8-15

Trade name of business 905 CAFE & GRILL

Address of business 905 E. OCEANVIEW AVE

Name(s) of business owner(s)* LEITH WYANT dba Lemonade stand, LLC

Name(s) of property owner(s)* GEORGE KOTARIDES JR. dba Warehouse One, LLC

Daytime telephone number (757) 480 0107

*If business or property owner is partnership, all partners must be listed.

*If business or property owner is an LLC or Corporation, all principals must be listed.

1. Proposed Hours of Operation:

Facility		Alcoholic Beverage Sales	
Weekday	From <u>6am</u> To <u>12am</u>	Weekday	From <u>9am</u> To <u>12am</u>
Friday	From <u>↓</u> To <u>↓</u>	Friday	From <u>↓</u> To <u>↓</u>
Saturday	From <u>↓</u> To <u>↓</u>	Saturday	From <u>↓</u> To <u>↓</u>
Sunday	From <u>↓</u> To <u>↓</u>	Sunday	From <u>↓</u> To <u>↓</u>

2. Type of ABC license applied for (check all applicable boxes)

☒ On-Premises ☐ Off-Premises (additional application required)

3. Type of alcoholic beverage applied for

☒ Beer ☒ Wine ☒ Mixed Beverage

4. Will indoor or outdoor entertainment be provided?

(Entertainment consists of anything more than one, unamplified musician)

☐ Yes (Different application required) ☒ No

DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664 4752 Fax (757) 444 4560

Exhibit A – Page 2
Eating and Drinking Establishment

5. Will video games, pool tables, game boards or other types of games be provided?
☐ Yes (If more than 4, additional application required) ☒ No

5a. If yes, please describe type and number of each game to be provided

6. Will patrons ever be charged to enter the establishment?
☐ Yes ☒ No

6a. If yes, why

- 6b. Which days of the week will there be a cover charge (circle all applicable days)?

Monday Tuesday Wednesday Thursday Friday
Saturday Sunday

N/A

7. Will the facility or a portion of the facility be available for private parties?
☐ Yes ☒ No

7a. If yes, explain

8. Will a third party (promoter) be permitted to lease, let or use the establishment?
☐ Yes ☒ No

8a. If yes, explain

9. Will there ever be a minimum age limit?
☐ Yes ☒ No

Eating and Drinking Establishment

10. Additional comments/ description/operational characteristics or prior experience:

Note: If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility



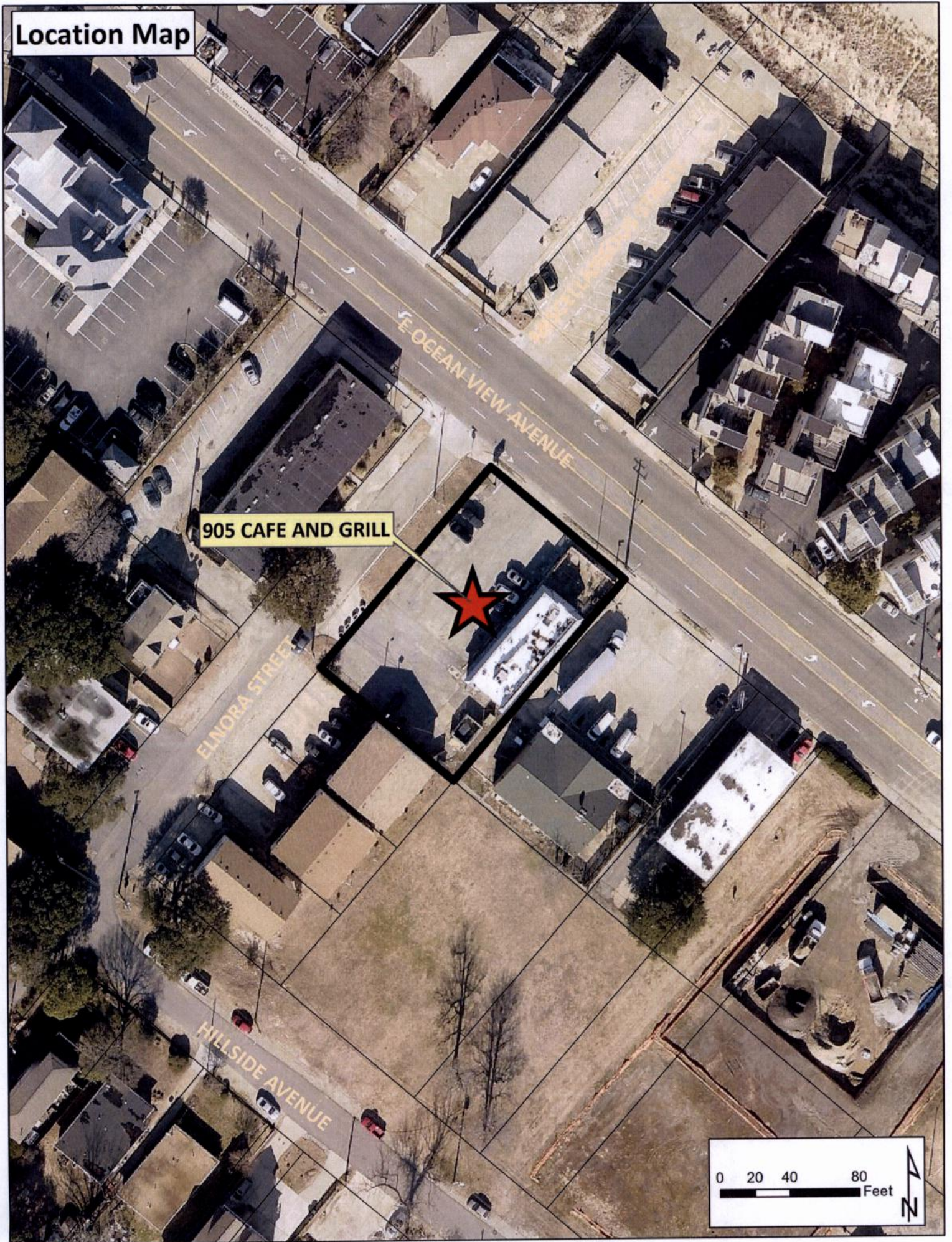
Signature of Applicant

DEPARTMENT OF CITY PLANNING

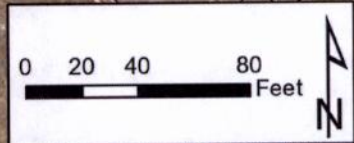
810 Union Street, Room 508
Norfolk, Virginia 23510

Telephone (757) 664-1752 Fax (757) 441-1569

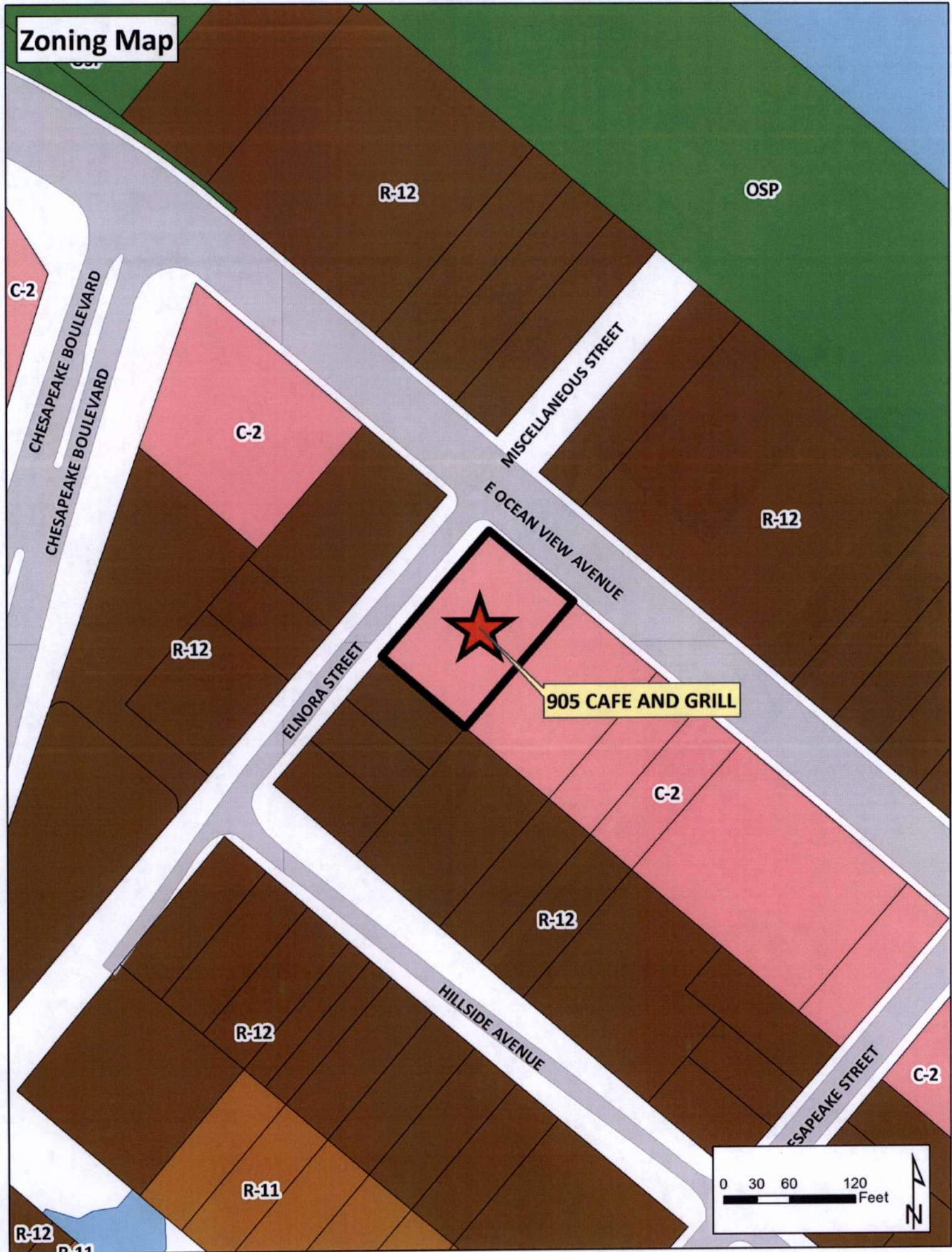
Location Map



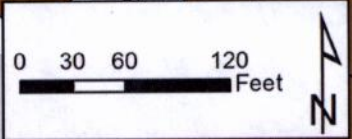
905 CAFE AND GRILL



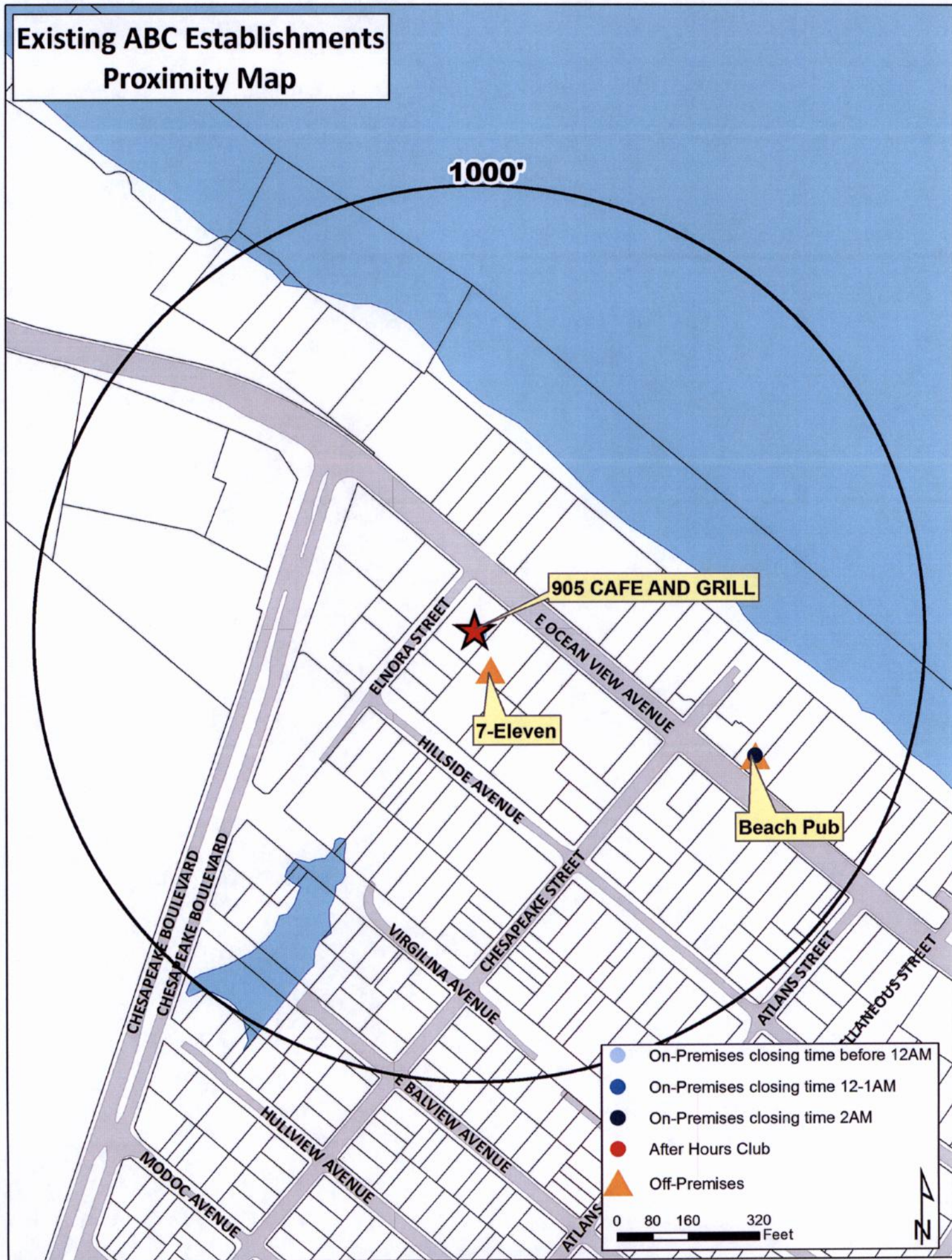
Zoning Map



905 CAFE AND GRILL



Existing ABC Establishments Proximity Map





**APPLICATION
ADULT USE SPECIAL EXCEPTION
EATING AND DRINKING ESTABLISHMENT
(Please print)**

Date 3-11-15

DESCRIPTION OF PROPERTY

Address 905 E. OCEANVIEW AVE

Existing Use of Property FOOD SERVICE

Proposed Use SAME

Current Building Square Footage _____

Proposed Building Square Footage _____

Trade Name of Business (if applicable) 905 CAFE & GRILL

APPLICANT

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

1. Name of applicant: (Last) WYANT (First) KEITH (MI) E

Mailing address of applicant (Street/P.O. Box): 905 817 HILLTOP RD

(City) VIRGINIA BEACH (State) VA (Zip Code) 23454

Daytime telephone number of applicant (757) 289 5026 Fax () _____

E-mail address of applicant: KEITHWYANT@COX.NET

DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

Application
Eating and Drinking Establishment
Page 2

AUTHORIZED AGENT (if applicable)

(If agent is a LLC or a Corp./Inc., include name of official representative and/or all partners)

2. Name of applicant: (Last) WYGANT (First) LEITH (MI) E

Mailing address of applicant (Street/P.O. Box): 817 HILLTOP RD

(City) VIRGINIA BEACH (State) VA (Zip Code) 23451

Daytime telephone number of applicant (757) 289 5026 Fax () _____

E-mail address of applicant: LEITHWYGANT@COKINET

PROPERTY OWNER

(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

3. Name of property owner: (Last) LOTARIDES (First) GEORGE (MI) P

Mailing address of property owner (Street/P.O. box): WAREHOUSE ONE LLC PO BOX 825

(City) VIRGINIA BEACH (State) VA (Zip Code) 23451

Daytime telephone number of owner (757) 469 0031 email: _____

CIVIC LEAGUE INFORMATION

Civic League contact: _____

Date(s) contacted: _____

Ward/Super Ward information: _____

REQUIRED ATTACHMENTS

- Required application fee, **\$355.00** (if check, make payable to the City of Norfolk).
 - Application fee includes a non-refundable \$5 technology surcharge.
- One 8½ inch x 11 inch copy of a floor plan prepared by a registered design professional drawn to scale showing seats/tables, restroom facilities, bar, ingress and egress, standing room, outdoor dining and total maximum capacity (see attached example)
- One 8½ x 14 inch or 11 x 17 inch copy of a physical survey, drawn to scale and showing site conditions and improvements (including portions of the right-of-way to the curb line):
 - Existing and proposed building structures
 - Driveways
 - Parking
 - Landscaping
 - Property lines (see attached example)
- One 8 ½ x 14 inch or 11 x 17 inch copy of a conceptual site plan drawn to scale and showing all proposed site improvements, landscaping, drive aisles and parking with dimensions, and proposed changes to parcel/property lines (including lease lines) if applicable.
- Completed Exhibit A, Description of Operations (attached)

CERTIFICATION

I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:

Print name: KEVIN LOMARIDES Sign: [Signature] 4 7 1 15
(Property Owner or Authorized Agent of Signature) (Date)

Print name: KEITH WYANT Sign: [Signature] 4 1 7 1 15
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: _____ Sign: _____ / ____ / ____
(Authorized Agent Signature) (Date)



Cottage Line Civic League
1816 E. Ocean View Avenue
Norfolk, Virginia 23503

May 17, 2015

Chairman, Norfolk Planning Commission
Attn: George Homewood, Director of Planning
City of Norfolk, 508 City Hall Building
810 Union Street
Norfolk, VA 23510

Re: Application for Expanded ABC hours of the 905 Café

Dear George,

Cottage Line Civic League Board of Directors fully supports Keith Wygant's application for expanded ABC hours of operation at the 905 Café. The Board of Directors voted again to support the application; previously in April 2012 Cottage Line Civic League members voted UNANIMOUSLY (25 to 0) to recommend approval of the application for expanded ABC hours of operation.

Our Civic League members considered the application in its entirety and noted the lack of complaints and the quality of the applicant in recommending approval in view of his history of compliance with local laws. Cottage Line Civic League members do not want to tie the hands of the small business owners, they very much like having small eclectic diners, eateries and shops in our neighborhood.

If you have any questions, please contact myself at (757) 287-6693

Sincerely,

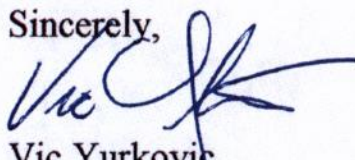

Vic Yurkovic
President

Exhibit A – Floor Plan(s) Worksheet
Eating and Drinking Establishment

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan must be prepared by a registered design professional and include:
 - Tables/seats
 - Restroom facilities
 - Bar
 - Ingress and egress
 - Standing room
 - Outdoor seating
 - Total maximum capacity (including employees)

Total capacity

a. Indoor

Number of seats (not including bar seats)
Number of bar seats
Standing room

46
0
0

b. Outdoor

Number of seats

30

c. Number of employees

3

Total Occupancy

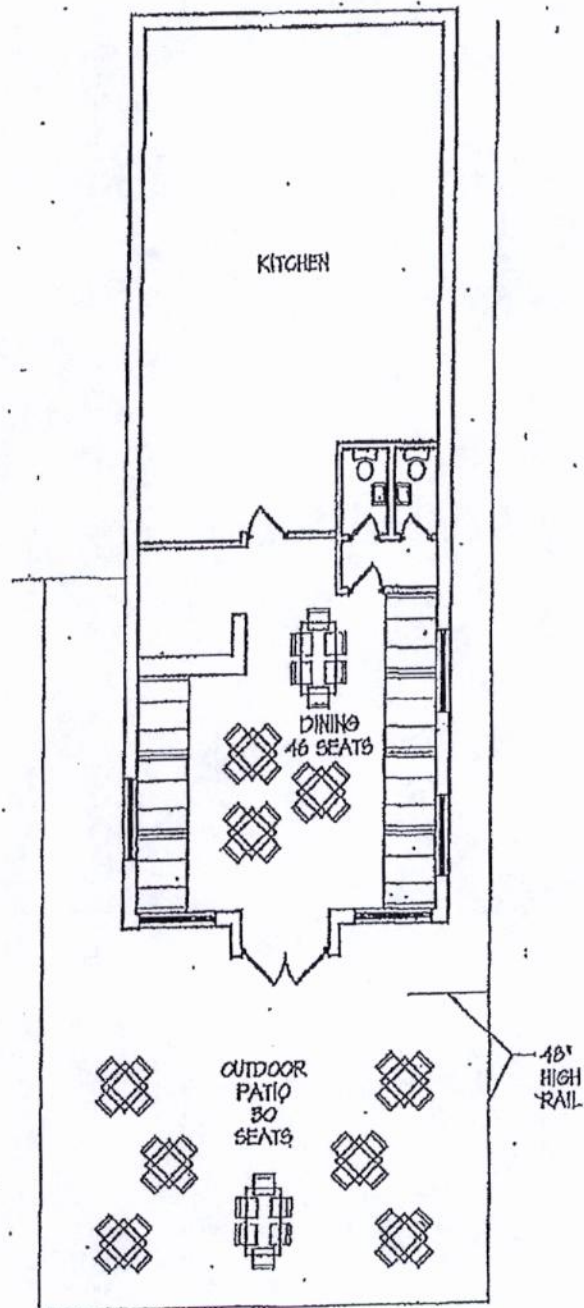
(Indoor/Outdoor seats, standing room and employees) = 79

DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569



FLOOR PLAN

3/32" = 1'-0"